

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
SUBDIVISION REPORT # FPP-20-19
WILD BILL RESERVE
NOVEMBER 24, 2020**

I. GENERAL INFORMATION

A. Project Description

The request is for preliminary plat approval of a six residential lot subdivision located at located on Wild Bill Road, assessor # 0015287, in Kila, Montana. The proposed subdivision would create six new residential lots to be served by individual septic systems and wells. Primary access to the lots would be from Wild Bill Road.

Project Personnel

i. Owner/Applicant

Paul D. Wachholz
P. O. Box 1477
Kalispell, MT 59901

ii. Technical Representative

Eric Mulcahy
Sands Surveying
2 Village Loop
Kalispell, MT 59901

Application Review Dates

1. Land Use Advisory Committee/Council

This proposal is not located within a Land Use Advisory Committee/Council area.

2. Planning Board

The Flathead County Planning Board will conduct a public hearing on the proposed subdivision on December 9, 2020 at 6:00 P.M. at the Expo Building at the Northwest Montana Fairgrounds located at 265 North Meridian Road, Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. This space is reserved for a summary of the Planning Board's discussion and recommendation.

3. Commission

The Flathead County Board of Commissioners will review this proposal after the public hearing conducted by the Planning Board and prior to January 5, 2021 which is the end of the 60-working day statutory review period. This space will contain an update regarding the Flathead County Commission review of the proposal.

II. ADMINISTRATIVE CHARACTERISTICS

A. Legal Description and Detailed Location of Subject Properties

The subject property is 159.628 acres total in size, is located on Wild Bill Road, assessor # 0015287, Kila, Montana and can legally be described as Tracts 2B and 3 in SE4 in Section 33, Township 27 North, Range 22 West, P.M.M., Flathead County, Montana.

Figure 1: Aerial of subject property highlighted in green



B. Subdivision Layout Detail

1. Total Subdivision Acreage:	159.628 acres
2. Acreage in Lots (spaces):	150.352 acres
3. Acreage in Roads:	9.276 acres
4. Total Park/Common Area/Open Space Acreage:	0.0 acres
5. Minimum Lot Size:	21.017 acres
6. Maximum Lot Size:	35.902 acres
7. Overall Gross Lot Density:	1 unit per 26.6 acres

C. Current Land Use and Zoning

The property is currently unzoned, and undeveloped.

D. Proposed Land Use

The proposed Wild Bill Reserve would create six residential lots with lot sizes between 21.017 acres and 35.902 acres. The lots are planned to be served by individual wells and septic systems. Access to Lots 2 through 6 will be from Wild Bill Road while Lot 1 will utilize the existing 60' easement agreement.

29. SARGENT & Lundy, Inc.
2000 S. 1st Avenue
Gallatin, MT 59501
(406) 758-6101

JUL 82
REV. 1
PUB. 0000000

15100
MONTANA
FACED BY WASHINGTON

Preliminary Plat Of WILD BILL RESERVE

A Subdivision located In
S31/4 SEC. 33, T.27N., R.22E., P.M.,M.,
FLATHEAD COUNTY, MONTANA

Scale 1" = 100'

NOTE:
- CONTAINS AN APPROXIMATE
- SHOWS PLATS, MAPS TO THE STATE OF MONTANA (Public Law 92-100)
- PLATS: 10000000

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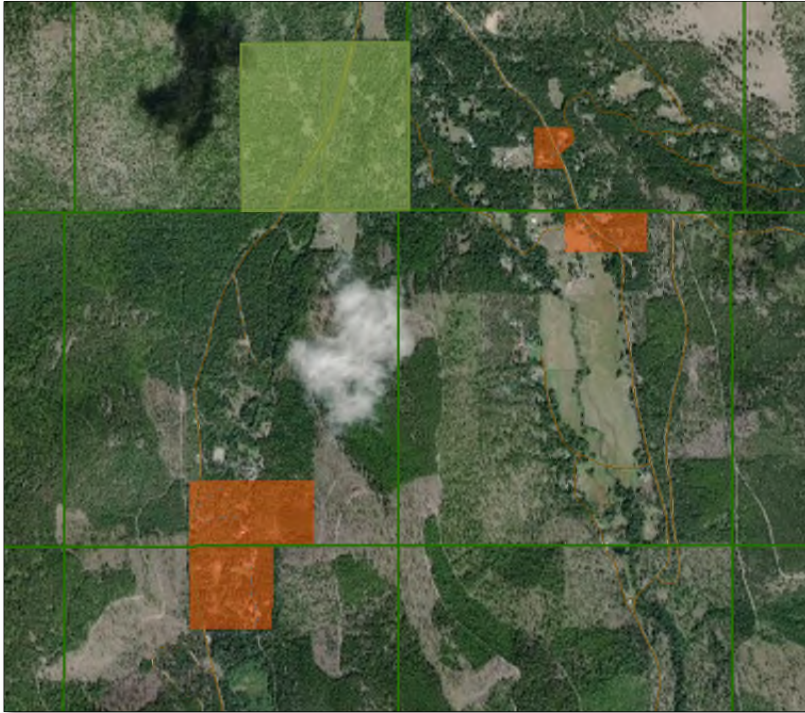
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The proposal is located on Wild Bill Road. Subdivisions in the immediate area include Kengerski Subdivision (1996), Truman Meadows (1997) both to the east, and Wild Bill Estates (2004) to the south.

Figure 10: Area subdivisions, subject property highlighted in green



F. Utilities and Services

1. **Water** – individual wells
2. **Wastewater** – individual septic systems
3. **Electricity** - Flathead Electric Cooperative
4. **Natural Gas** - Northwestern Energy
5. **Solid Waste** – Contract Haul
6. **Telephone Service** - CenturyLink
7. **Fire District(s)** – Smith Valley
8. **Police** - Flathead County Sheriff

III. COMMENTS RECEIVED

A. Agency Comments

Referrals were sent to the following agencies on October 22, 2020:

- Flathead County Solid Waste
- Flathead County Road and Bridge Department
- Flathead City-County Environmental Health Department
- Smith Valley Fire District
- MT Fish, Wildlife, & Parks
- Kila School District
- School District #5
- Flathead County Weeds & Parks Department
- DNRC
- Flathead Conservation District
- Flathead County Address Coordinator

- BPA
- DEQ, Public Water
- Flathead County Sheriff
- U. S. Forest Service

The following is a summarized list of agency comment received by the Planning Office as of the date of the completion of this staff report:

- Bonneville Power Administration
 - Comment: “At this time, BPA does not object to this request, as the property is located 5.50 miles away from the nearest BPA transmission lines or structures.”
- Flathead County Road and Bridge Department
 - Comment: “After completing our review, we noted the request to the paving variance for the subdivision. In many of these cases we’ve requested the developer to participate in our Dust Cost Share Program (DCSP). As the application states Wild Bill Road is a County road but is not maintained. Therefore, participation in the DCSP is not possible. Their proposal to pave 600 feet of Wild Bill will need to be reviewed ultimately by the Commissioners for approval or denial. If approved my only questions is where will the paving be located? We’ve seen it both ways where it is at the current end of paving going to the subdivision, in this case the split in the road with Wild Bill and Truman Creek Road, or in front of the lots of the subdivision.”
- Flathead County Environmental Health Department
 - Comment: “The proposed development of Lots 1-6 are larger than 20 acres and is exempt from review under Title 76-4-1, MCA. The lots are subject to review under Flathead County Regulations for Onsite Sewage Treatment Systems.”
- Smith Valley Fire District
 - Comment:
 1. “The property located along Wild Bill Road is currently located in our Flathead County Fire Service Area and not in the Smith Valley Fire District. Due to the increased amount of traffic and responsibility that the Fire District would incur from a subdivision of this size (i.e. 159.628 acres into 6 parcels) I would recommend that the property is annexed into the Smith Valley Fire District prior to final approval by the Planning and Zoning Department.
 2. Currently there is no sustainable water supply for fire suppression available for this area. The proposal for each lot to have an individual well does not meet fire suppression requirements. Truman Creek and Wild Bill Creek are both seasonal water sources that are located in this area and are not considered adequate water sources for NFPA and/or ISA fire suppression standards. The following is what will be required to meet adequate water supply for fire suppression efforts as well as meet NFPA and/or ISA fire

flow requirements:

- a) The water system will be located within the subdivision.
- b) The water system shall consist of a minimum holding tank of 30,000 gallons that refills with an electric pump at a standard rate of 8-10 gpm.
- c) The fill connection may be a standard hydrant or a stand pipe with a 2.5 inch fire connection with a minimum of a 500 GPM pump.
 - i. The stand pipe must be no less than 36 inches and no more than 48 inches off of the ground.
 - ii. The stand pipe must be a 3 inch pipe with a 2.5 inch fire thread coupler with a cap.
 - iii. All fire apparatus must be able to get within 10 feet of the hydrant or stand pipe.
 - iv. A dry hydrant draft stand pipe, with a 5 inch pipe and a 5 inch female fire thread coupler with a cap, is also required in the case of power or pump failure.

3. Additional comments:

- a) All subdivisions within the Wildland Urban Interface (WUI) need to follow the Flathead County Development Code 4.7.27.
 - b) All residential structures should be clearly identified prior to occupancy with address numbers that are plainly visible and legible from the street. Numbers should be a minimum of four inches in height and reflective.”
- Montana Fish, Wildlife & Parks
 - Comment: “This subdivision would be located in an area that has little development and provides habitat for numerous wildlife species, including white tailed deer, black bears, the occasional grizzly bear, bobcats, mountain lions, coyotes, foxes, and many additional mammalian and avian species. The proposed Lots 3, 4, and 5 are bisected by a creek, and the developer has proposed a 50-ft. no-build zone on either side of the creek. In addition, Lot 4 contains a wetland area that is also designated as a no-build zone. The development of this property will have direct impacts on wildlife habitat and populations in the area. Cumulatively, the ongoing development of this area of Kila will result in significant habitat loss to wildlife and increased wildlife-human conflict.
“To help mitigate these habitat impacts, we submit the following suggestions. We suggest increasing the lot sizes to decrease the amount of residential lots. Specifically, combining lots 2 and 3 would reduce the overall impact on the wetland area in lot 2 and the creek corridor that runs through 3 of the proposed lots. Currently there is the potential for

the creek to be restricted within a culvert at 3 locations due to driveway development. Reducing this to 2 potential culvers by combining lots 2 and 3, would decrease the overall impact to the riparian corridor. Furthermore, we recommend a total building setback of 200 ft. along perennial streams; whereas, the developer has indicated a 50 ft. setback instead. This proposed no-build corridor is not sufficient to mitigate development impacts on the riparian corridor. In addition, the wetland area should be surrounded by a 130 ft. no-build zone buffer to maintain the integrity of the wetland. It is unclear from the plat, how much area is encompassed by the wetland, but it does not appear any additional buffer has been established.

“As the human population of the Flathead Valley increases dramatically, so do human-wildlife conflicts. FWP cannot respond to all wildlife conflicts, and home-owners must do their part in mitigating potential conflicts. We expect that this subdivision will result in an increase in human-wildlife conflicts in the Kila area. These primarily will include conflicts with deer, mountain lions, turkeys, black bears and grizzly bears. Potential buyers should be made aware that they are moving into wildlife habitat, where predators are common. To mitigate potential human-wildlife conflicts, we recommend that the developer adopt the following covenants.

- a) Homeowners must be aware of the potential or vegetation damage by wildlife, particularly from deer feeding on lawns, gardens, flowers, ornamental shrubs, and trees in this subdivision. Homeowners need to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Landscape plantings of certain species of native vegetation are less likely to suffer extensive feeding damage by deer. We recommend the excellent booklet *Minimizing Deer Damage to Residential Plantings*, put out by the Montana State University Animal & Range Sciences Extension Service and available online at: http://www.animalrangeextension.montana.edu/articles/wildlife/deer_damage.htm.
- b) Fruit-producing trees and shrubs should not be allowed because they attract bears. If present they must be fenced with electric fencing to deter bears. Keep produce and any fruit picked and off the ground. Ripe or rotting fruit or vegetable material attracts bears, deer, skunks, and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller, or electric fences utilized.
- c) Garbage must be stored either in secure, bear-resistant containers or indoors, preferably both, to avoid attracting wildlife such as bears and raccoons. If stored indoors, garbage

cans may not be set out until the morning of garbage pickup and must be brought in no later than that same evening. If home sites are occupied seasonally or if the occupants are to be away from the household for 7 days or more, garbage from the home, other buildings, or containers must be removed from the property prior to their departure.

- d) Do not feed wildlife or offer supplements such as salt or mineral blocks, attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that can lead to overuse of vegetation, disease transmission, and other adverse effects to wildlife (such as foundering of deer). Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract ungulates, bears, or mountain lions with supplemental food attractants (any food, garbage, salt block, hay, grain, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in “an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety.” Also, homeowners must be aware that deer often attract mountain lions to the area.
- e) Birdseed is an attractant to bears, deer, and turkeys. Use of bird feeders should be discouraged from April 1 through November 30.
- f) Pets at large, particularly dogs and cats, are a real threat to wildlife. Pets must be confined to the house, a fenced yard, or an outdoor kennel when not under the immediate control of the owner, and not allowed to roam. Under state law it is illegal for dogs to chase hoofed game animals (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife. We recommend the FWP brochure Living with Dogs & Cats.
- g) Pet food must be stored indoors, in closed sheds, or in bear-resistant containers to avoid attracting wildlife such as bears, mountain lions, skunks, and other wildlife. When feeding pets, do not leave food out overnight.
- h) Barbecue grills must be stored indoors, and permanent outdoor barbecue grills should be cleaned thoroughly after each use. Food spills and smells on and near the grill attract bears and other wildlife
- i) Fencing of lot boundaries is discouraged. If used, rail or smooth wire fences will be erected that are no higher than 40” at the top rail/wire and now lower than 18” at the bottom rail/wire to facilitate wildlife movement and help avoid animals becoming ensnared and killed by the fence or injuring themselves when trying to jump the fence. Please refer to the helpful booklet on wildlife friendly fences available from FWP and online at:

<http://fwp.mt.gov.fishAndWildlife/landowners/>.

- j) Compost piles and beehives attract bears and if permitted, must be fenced with electric fencing.
- k) Domestic animals such as horses, cattle, pigs, sheep, goats, llama, poultry, etc. (including those kept as 4H projects), can attract bears, mountain lions, and coyotes. Animals must be housed with this in mind, and livestock feeds, especially grain-related, must be fed in a manner that does not allow deer or bears to have access to them.”

Public Comments

In accordance with Section 4.0.14 Flathead County Subdivision Regulations (FCSR), adjacent property notification was mailed to neighboring property owners within 150 feet of the proposed subdivision on November 20, 2020, legal notice will be published in the Daily Interlake on November 22, 2020, and notice of the proposal and public hearing was physically posted onsite on November 19, 2020.

As of the date of the completion of this staff report, no written public comments have been received from the general public regarding the proposal. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing.

IV. LOCAL GOVERNMENT REVIEW

A. Review Criteria and Staff Findings

Findings in this portion of the report are applicable to the impacts of the proposed subdivision on the review criteria listed in Section 76-3-608(3) MCA and the review procedure outlined in Section 4.1 of the Flathead County Subdivision Regulations (FCSR), effective December 3, 2018.

1. Agriculture and Agricultural Water User Facilities

According to the Environmental Assessment, *“The property has never been used for agricultural food products but it has been used for commercial timber production. The property was recently sold to the current owner. Neighboring properties consist of private rural residential and timber lands as well as corporate timber lands. The proposed subdivision will match the general character of the neighborhood. The property has been actively managed as a corporate forest and was harvested in the last ten years. It will be sometime before the property is ready for commercial thinning. That said there will be need to provide “Firewise and Defensible Space” practices when the house sites are selected. There are no shared agricultural water works, canals, irrigation ditches, pump houses etc. The property is not located within an agricultural water district.”* The property to the east of the subject property are large residential lots while to the south is forest service. The proposed subdivision would likely have minimal impact on neighboring agricultural production.

There are no shared agricultural water works, canals, irrigation ditches, or pump houses on the property and the property is not located within an agricultural water district or area.

Finding #1 – There would be minimal impact on agriculture or agricultural water user facilities as a result of the proposed subdivision because the property has not been in agricultural production, has no irrigation infrastructure on site, and is not in an irrigation district.

2. Water and Wastewater Services

The applicant is proposing the utilization of individual wells and septic systems for water and wastewater usage of the proposed subdivision. The EA states, *“The proposed water system for domestic and irrigation use are individual wells serving each of the lots. Based on an average domestic demand of 100 gallons per capita per day (GPD) combined with US census data of about 2.5 persons per home, a total of 1,500 gpd will be used to meet the average daily demand, which equates to 1.68 ac-ft. per year. If an average of 10,000 ft² of lawn is irrigated for each single-family lot, it is estimated 2.9 ac-feet of irrigation water is needed for the 6 lots annually. It does not appear that the domestic and irrigation demand for the subdivision will exceed 35 gallons per minute or 10 acre-feet per year. In looking at the abstracts from adjacent wells, it would appear that there is adequate water in the vicinity. As all of the lots exceed 20 acres in size, all of the lots are exempt from the MDEQ review for sewer, water, and stormwater.”*

Concerning sewage disposal and system according to the EA, *“The Wild Bill Reserve development proposes the use of individual septic systems for treatment of wastewater. As each of the proposed lots is in excess of 20 acres, they are exempt from the MDEQ process and as a result test holes were not dug on the property. Based on a total of 6 single-family lots, and an average daily wastewater flow of 250 gallons per day (GPD) per dwelling unit, the total average daily wastewater flow will be 1,500 gpd. The groundwater monitoring results from nearby septic systems indicate that groundwater depth is greater than six feet which was the depth of the shallowest test holes. The minimum depth to seasonably high groundwater is four feet per the Flathead County Sanitation Regulations.”*

Comment from The Flathead City-County Health Department states, *“The proposed development of Lots 1-6 are larger than 20 acres and is exempt from review under Title 76-4-1, MCA. The lots are subject to review under Flathead County Regulations for Onsite Sewage Treatment Systems.”*

Finding #2 – The subdivision will have minimal impact on water and wastewater because the subdivision will utilize individual wells and septic systems, MDEQ review is not required, and the subdivision will be subject to review from the Flathead City-County Environmental Health Department.

3. Solid Waste Disposal

The EA states, *“The subdivision will use a contract hauler for refuse collection and hauling. The landfill is located along U.S. Highway 93 approximately 30 road miles northwest of the subject property.”*

The Flathead County Solid Waste District did not comment on the proposal. Staff’s research of the Flathead County Solid Waste also indicated a Green Box drop off site in Kila.

Pursuant to Section 4.7.22 FCSR the applicant should be required to meet the requirements of the Flathead County Solid Waste District.

Finding # 3 – Impacts on solid waste disposal would be acceptable with standard conditions because the lots within the proposed subdivision would utilize contract haul services for solid waste management.

4. Roads

The subdivision will utilize as primary access Wild Bill Road for Lots 2 through 6 which is a gravel two lane public road within a 60 foot easement and develop to Flathead County Road and Bridge Standards for gravel roads and utilize approximately 465 lineal feet of an existing 60 foot Easement Agreement for accessing Lot 1 which is not accessible by Wild Bill Road.

The EA submitted with the application states, *“Five of the six lots will have direct access to Wild Bill Road which is a County unmaintained road at this point. For the most part, landowners adjacent to the subdivision have maintained the road through handshake agreements. Wild Bill Road provides access to USFS Lands (The Island Unit) to the south as well as large swaths of corporate timber lands and state lands. Only a short segment of new road will be constructed to access Lot 1 of the subdivision.*

“Wild Bill Road could be considered a collector but the traffic volumes are very low at an average of 90 trips per day. Due to the size of the lots and the fact that the County Road splits the subdivision with three lots on the west and three lots on the east an internal subdivision road is not practical. The proposed subdivision road and cul-de-sac up to Lot 1 will be paved. The developer will be responsible for off-site road paving per the “standard improvement formula” but he is requesting a variance with an alternative of 100-feet of paving per lot off site. The applicants submitted a dust abatement plan with the proposed subdivision application. The owners/developer will be responsible for construction of the new road and any off-site improvements. The road to Lot 1 will be privately owned and maintained by Lot 1. The “Unmaintained” County Road will at a minimum be maintained by the Wild Bill HOA to the southern extent of the subdivision...Wild Bill provides access to the south into the USFS Island Unit as well and the Wild Bill Off Highway Vehicle (OHV) area on forest service lands. This road also provides access for fall hunters, winter snowmobilers, and commercial timber operations. The road should easily handle traffic to six homes proposed on the 160 acres. As this section of Wild Bill Lane is County “Unmaintained”, maintenance and snow removal is at the expense of the adjacent land owners. In this case, the Wild Bill Reserve HOA will work with the neighboring land owners to establish a road maintenance agreement for Wild Bill Road.”

Concerning ADT, the EA states, *“The Flathead County Subdivision Regulations attribute ten vehicle trips per day to a single family dwelling. This number is loosely based on the ITE Trip Generation Manual which assigns 9.52 vehicle trips per day for a single family detached dwelling. At ten vehicle trips per day the six lot subdivision would generate 60 vehicle trips per day at full buildout.”*

Staff agrees with the EA that it is anticipated the proposed subdivision would result in a total of up to 60 daily vehicle trips. There are no traffic counts for Wild Bill Road, however Truman Creek Road provides access to Wild Bill Road and the latest traffic counts available from the Flathead County Road and Bridge Department for Truman Creek Road is from 2014. At that time, the daily traffic count for Wild Bill Road east of Browns Meadow Road was 718. The addition of up to 60 vehicle trips to Truman Creek Road would result in an increase of 8.3%.

Finding #4 – The road system appears to be acceptable because Wild Bill Road is a gravel two lane public road within a 60 foot easement which will access Lots 2 through 6, and the applicant will develop to Flathead County Road and Bridge Standards for gravel roads and utilize approximately 465 lineal feet of an existing 60 foot Easement Agreement for accessing Lot 1, and the potential increase for Wild Bill Road is 8.3%.

5. Schools

The property is located in the Kila School District. According to the EA, *“The Wild Bill Reserve development lies within the Kila Elementary School District #20 with K-8 Grades and 9-12 grades attending Flathead High School. The 2019 Statistical Report from the Flathead County Superintendent of Schools, the Kila School saw a 10% increase in school enrollment over the 2018 school year and a 43% increase over the last 10 years or 4.3% per year. Flathead High School saw a 1% decrease over the 2018 school year and a 5% increase over the last 10 years for a 0.5% annual growth rate. Using County wide average of 0.31 school aged children per residence”*

According to census data for Flathead County, the average household size is 2.46 persons and approximately 16.5% of the population is between the ages of 5-18 years. The establishment of six lots developed with six single family dwellings with this proposed subdivision would potentially lead to three potential school aged children. The office has received no comments from the school district at the time of writing this report.

The number of students generated by this proposal could be served without introducing significant impacts to the school district.

6. Mail Delivery

The developer will be required to submit plans for review and written approval from the local postmaster as a condition of preliminary plat approval.

7. Parks and Recreation

The application states, *“All of the lots exceed five acres gross, and are exempt from parkland dedication per Section 4.7.24 of the Flathead County Subdivision Regulations. With lots of 20 acres or more in size, there is ample room for families to recreate their own land.”*

The Flathead County Trails Plan does not designate Wild Bill Road as a potential trail site in the future.

Finding #5 – Adverse impacts on schools, mail delivery and recreation are not anticipated as a result of the proposal subdivision because the mail box site/s will be required to be approved by the local postmaster, the proposal has the potential to add three (3) school aged children, the Kila School District did not comment on the

proposal, a bike/pedestrian easement will not be required and no parkland dedication is required.

8. Fire/Emergency Medical Services

The EA states, *“The proposed subdivision is not in a Volunteer Fire District. The Smith Valley Fire District abuts the property on the east. The applicant will request annexation into the District. The applicant is currently in communications with the district on potential water supply options. The Smith Valley Fire Station is located approximately eight miles away on Highway 2. The subdivision access is designed to County Standards*

“Ambulance service is provided by the Smith Valley Volunteer Fire Department which has its main station approximately eight miles northeast. Alert service is available and provided by Kalispell Regional Medical Center. According to the Smith Valley Volunteer Fire Department, the response times for fire or ambulance are adequate... Should the District allow annexation, then the services would be able to handle the additional land. If the District denies annexation then the District will not provide service.”

According to the Wildland Urban Interface Fire Prevention Control and Fuels Reduction Plan submitted with the proposal, *“The applicant has made contact with the Fire District and has prepared the paperwork to annex into the district. The Fire Chief, Amy Beick, has indicated that annexation would be amendable to the district if a large regional tanker recharge facility is constructed at the subdivision. The applicant is negotiating with the Fire Chief to see if alternatives would be amenable to the District.*

“Any annexation of the development to the District would require the approval of the Smith Valley Fire District Board of Directors and the Flathead County Commissioners. I would assume the District would only allow annexation if they can handle the additional home sites.

“If Smith Valley does not approve annexation, the subdivision would fall under the DNRC for wildland fire protection but not structure protection.”

Comment from the Smith Valley Fire Department indicates, *“The property located along Wild Bill Road is currently located in our Flathead County Fire Service Area and not in the Smith Valley Fire District. Due to the increased amount of traffic and responsibility that the Fire District would incur from a subdivision of this size (i.e. 159.628 acres into 6 parcels) I would recommend that the property is annexed into the Smith Valley Fire District prior to final approval by the Planning and Zoning Department.*

1. Currently there is no sustainable water supply for fire suppression available for this area. The proposal for each lot to have an individual well does not meet fire suppression requirements. Truman Creek and Wild Bill Creek are both seasonal water sources that are located in this area and are not considered adequate water sources for NFPA and/or ISA fire suppression standards. The following is what will be required to meet adequate water supply for fire suppression efforts as well as meet NFPA and/or ISA fire flow requirements:

- a) The water system will be located within the subdivision.
- b) The water system shall consist of a minimum holding tank of 30,000 gallons that refills with an electric pump at a standard rate of 8-10 gpm.
- c) The fill connection maybe a standard hydrant or a stand pipe with a 2.5 inch fire connection with a minimum of a 500 GPM pump.
 - i. The stand pipe must be no less than 36 inches and no more than 48 inches off of the ground.
 - ii. The stand pipe must be a 3 inch pipe with a 2.5 inch fire thread coupler with a cap.
 - iii. All fire apparatus must be able to get within 10 feet of the hydrant or stand pipe.
 - iv. A dry hydrant draft stand pipe, with a 5 inch pipe and a 5 inch female fire thread coupler with a cap, is also required in the case of power or pump failure.

2. Additional comments:

- a) All subdivisions within the Wildland Urban Interface (WUI) need to follow the Flathead County Development Code 4.7.27.
- b) All residential structures should be clearly identified prior to occupancy with address numbers that are plainly visible and legible from the street. Numbers should be a minimum of four inches in height and reflective.”

The site is not located within the Smith Valley Fire Service Area which is the nearest Fire Service Area. The subject property is located in a large lot, minimally developed area within the Wildland Urban Interface (WUI) and also within an Extreme Countywide Priority Area. Fire danger to residents should be minimized as much as possible with annexation into the Smith Valley Fire District and following fire-wise practices.

9. Police Services

The proposed subdivision is located in a rural area of Flathead County and will be served by the Flathead County Sheriff’s Department. Although the combination of existing staff levels, shift rotations, size of the county, and the dispersed nature of the population may affect response times, the property’s proximity the Flathead County Sheriff’s Office in Kalispell would lead to slightly delayed response times in the event of an emergency.

The EA states, “*The Flathead County Sherriff’s Office provides a standard comment that they can meet the demands of the future growth but response times vary or may be slow depending on where personnel happen to be when the call comes in and how many officers are available at the given time.*”

Finding #6 – Impacts on fire/medical and police services would be minimal with standard conditions and project specific conditions because the lots within the proposed

subdivision would be served within an acceptable response time by the Smith Valley Fire Department if the subdivision is annexed into the Smith Valley Fire District and Flathead County Sheriff's Department in the event of an emergency.

10. Impact of Noise

While noise and vibration will likely result from construction of a houses on the proposed lots, these impacts will be limited in duration and should not negatively impact the surrounding area. No noise beyond what is typical for a residential area is anticipated as a result of the proposed subdivision. The proposed residential use is not anticipated to generate noise that would impact area residents or wildlife.

11. Air Quality

According to the EA, *"Wild Bill Road Drive is county gravel road at this property. Further up the road, Wild Bill transitions into a Forest Service Road. This is also the USFS Off Road Vehicle Area which generates a fair amount of traffic particularly on the weekends. Any dust generated by the development would be typical of a rural residential. Recreational area."*

According to comment from the Flathead County Road and Bridge department, "After completing our review, we noted the request to the paving variance for the subdivision. In many of these cases we've requested the developer to participate in our Dust Cost Share Program (DCSP). As the application states Wild Bill Road is a County road but is not maintained. Therefore, participation in the DCSP is not possible. Their proposal to pave 600 feet of Wild Bill will need to be reviewed ultimately by the Commissioners for approval or denial. If approved my only questions is where will the paving be located? We've seen it both ways where it is at the current end of paving going to the subdivision, in this case the split in the road with Wild Bill and Truman Creek Road, or in front of the lots of the subdivision."

The applicant has submitted a variance request to the off-site road improvement requirement of paving 2320 lineal feet and offers the alternative of paving 100 feet per lot for a total of 600 lineal feet.

While an initial increase in dust is anticipated with the expansion and construction of roads and the construction of structures, no permanent decrease in air quality is expected with this proposal. The applicant has submitted a "Dust Control Plan" compliant with Section 4.7.14 FCSR. A note will be required to be placed on the face of the final plat that requires the owners of all lots abide by the guidelines set forth in the plan during and after site construction and development activities.

Finding #7 - Adverse impacts to air quality and noise are not anticipated with standard conditions because the applicant will be required to pave 2320 lineal feet unless a variance to the requirement is granted, a Dust Abatement Plan was provided to mitigate potential issues of dust during construction, and impacts of noise are not expected to extend beyond property lines.

12. Soils

The applicant states in the EA, *"This property was formerly Plum Creek/Weyerhaeuser corporate timber lands."*

According to NRCS soils data, the soils on the approximate property are comprised of 4 soils.

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI	Farmland Classification	Natural Drainage Class
61E	McMannamy gravelly silt loam, 8 to 30 percent slopes	85.0	50.6	Not prime farmland	Well drained
61F	McMannamy gravelly silt loam, 30 to 50 percent slopes	2.9	1.7%	Not prime Farmland	Well drained
81D	Foyslake gravelly silt loam, 4 to 15 percent slopes	70.2	41.7%	Farmland of statewide importance	Well drained
941C	Trumancreek-Foyslake-Blackcreek complex, 0 to 12 percent slopes	10.2	6.0%	Not prime farmland	Poorly drained

The soils are a mix of soils classified as not prime farmland, and farmland of statewide importance and either well drained or poorly drained.

13. Stormwater

According to the EA, *“Runoff water from the existing Wild Bill Road and logging roads flows into the adjacent roadside swales and sheet flows over the downslope property. Runoff from the new homes and driveways will also be captured in adjacent barrow ditches and by sheet flow of the large 20 + acre lots with significant native vegetation. As the lots all exceed 20 acres in size, they are exempt from the County and MDEQ requirements for a stormwater drainage plan. The 160 acre former Weyerhaeuser property has a number of natural drainages and depressions. As the subdivision is only creating six building sites, the bulk of this property will remain undeveloped and in a native condition which will allow stormwater to continue to flow and filter as it has always done. The individual residential lot owners will be responsible for runoff water generated on their own properties. The Homeowner’s Association will be responsible for maintenance of all roadside conveyance swales within the confines of the subdivision.”*

Comment from the Flathead City-County Environmental Health Department states, “The proposed development of Lots 1-6 are larger than 20 acres and is exempt from review under Title 76-4-1, MCA. The lots are subject to review under Flathead County Regulations for Onsite Sewage Treatment Systems.”

Finding #8 – The soils on the subject property appear to be acceptable because while the soils are a mix of not prime farmland, and farmland of statewide importance classifications, the property has not been in agricultural production, the subdivision will

utilize individual wells and septic systems requiring review by the Flathead City-County Environmental Health Department and stormwater is required to be reviewed and approved by MDEQ.

14. Geologic/Avalanche Hazards

The subject property is not located in an area which contains either geologic or avalanche hazards.

According to the EA, *“The proposed development is located in an area of gently rolling mountain terrain. To visually demonstrate the topography we prepared a slope map that shows slopes 25% and over and slopes of 40% and over. There are almost no slopes in excess of 40% except along a small area of creek bank and the very northwest tip of Lot 1. There are many potential building sites on slopes less than 25% on each of these very large lots. There is no danger of rock slides, mud slides, or avalanche on the property. The property is not located on a geologic fault line. There is a “No-Build” zone placed 100-feet on each side of the creek which encompasses any steep slopes along the creek. The tiny bit of steep slope in the northwest corner of Lot 1 is so isolated that we are not proposing any mitigation.”*

Finding #9 – No impacts from geological and avalanche hazards are anticipated because no geological and avalanche hazards are present on the subject properties.

15. Flora

The subject property is currently undeveloped.

The EA states concerning vegetation, *“The property is formerly Weyerhaeuser land and has been in long term forest management. There is a ribbon of riparian vegetation along Wild Bill Creek and a little bit of wetland vegetation around the pothole wetland identified on the plat. As this is formerly corporate forest land, there are weeds scattered throughout the property but particularly along the roads. “No-Build” zones have been placed along Wild Bill Creek and the small pothole wetlands. Otherwise there are no unique or critical plant communities.”*

With a search of the Montana Natural Heritage Program there are 4 species of concern in this general area, Beck Water-marigold, Floriferus Monkeyflower, Sweetflag, and Sprangletop. Sweetflag resides in wetland/riparian areas, and Beck Water-marigold resides in aquatic habitat. The applicant has placed a no build zone around the small wetland as well as a 100 feet no build zone on either side of the creek which runs through the property.

The prevention of noxious weeds is particularly important with regard to construction and development. Pursuant to Section 4.7.25 FCSR, an approved weed control management plan, applicable to all lots, will be required as a condition of final plat approval.

16. Riparian/Wetland Areas

The EA states, *“The Wild Bill Reserve subdivision is located up the Truman Creek drainage with Wild Bill Creek running through a portion of the proposed subdivision. Wild Bill Creek being a tiny creek is not mapped by FEMA and contains no regulatory floodplain. To address potential impacts to the little creek, the applicant has placed a 100-foot no-build zoning on each side of the creek...As required by the Flathead County*

Subdivision Regulations, we have prepared a Riparian Resource Management Plan. Wild Bill Creek is a small creek that was only three to four feet in width during the site visit early this spring when the creek was in run-off. The proposed Lots are all over 20 acres in size and will have a 100 foot “no-building” requirement on the face of the plat. As the lots are over 20 acres in size, they are exempt from the MDEQ review but each lot will be reviewed for septic and well when the future lot owner selects a building site prior to construction. The future septic system will be subject to Flathead County’s Sanitation requirements.”

There is a small wetland documented on the property on proposed Lot 4. A no build zone is indicated on the plat map.

Concerning wetlands, the EA indicates, *“There is also a small pothole wetland that had water in it this spring but appears to dry out by late summer. A no build zone will be placed on this wetland to protect it from degradation.”*

Finding #10 – Minimal impacts to the flora and riparian/wetland area are anticipated because the proposal has a clearly marked no build zone on the wetland in addition to a 100 foot no build zone on both sides of Wild Bill Creek, the applicant has submitted a Riparian Resource management Plan and a weed management plan shall be approved by the Flathead County Weed Board prior to final plat approval.

17. Floodplain

The property is located on FEMA FIRM Panel 30029C2250G effective September 28, 2007 in an unshaded Zone X which is an area determined to be outside the 0.2% annual chance floodplain.

Finding #11 – The proposal would not introduce adverse impacts to public health and safety in regard to flood risk because the property is located in an unshaded zone X which is an area determined to be outside the 0.2% annual chance floodplain.

18. Wildlife and Wildlife Habitat

A search conducted by staff of the Montana Natural Heritage Program identified this general area of the County may be frequented by 10 species of concern. There are four mammal species, the Hoary Bat, Little Brown Myotis (bat), Fisher and Grizzly Bear. Four bird species are indicated, Great Blue Herron, American Bittern, Black Tern and Clark’s Nutcracker. There are one species of fish, the Westslope Cutthroat Trout, and one amphibian, the Western Toad. The mammal species reside in riparian and forest areas and conifer forests. The Blue Heron’s habitat is riparian forest, and the Clark’s Nutcracker’s habitat is Conifer forest. The American Bittern and Black Tern reside in wetlands. The Western Toad’s habitat is Wetlands and floodplain pools. The proposed subdivision has lots ranging in size from 21 to 35.9 acres and as a result, a majority of the property will remain open space. The wetland has a mapped no build zone and Wild Bill Creek has a no build zone of 100 feet on each side of the creek. The applicant has submitted a Riparian Resource Management Plan with the proposal for both the small wetland and Wild bill Creek.

The EA states, *“To write this section of the EA, the wildlife maps prepared by Flathead County GIS with cooperation by Montana FW&P were consulted. The Montana Natural Heritage Program was consulted for Species of Concern data. Jessie Coltrane,*

Wildlife Biologist, and Kenny Breidinger, Fisheries Biologist, of Fish, Wildlife and Parks, was sent an email of the plan plat and a request for comment on June 24, 2020 regarding the potential impacts. Ms. Coltrane responded on the same day indicating that she recommends restrictions on bear attractants for the subdivision and that she has some concern over cumulative elimination of deer and elk security due to development. Various bird species and numerous whitetail deer were witnessed on the property during a site visit. Other species of wildlife that use the site including; raccoon, coyote, other small mammals, and a diversity of bird species. This area is frequented by bear and lion.

“The Montana Heritage Program (MHP) provided a search of its records of Species of Concern (SOC) for a nine square mile area around the proposed subdivision site. According to the Montana Heritage Program, there are ten species of concern sighted in the nine square mile search area (MHP, Environmental Summary, Species Occurrence Map). The species listed are the cutthroat trout, evening grosbeak, Clark’s nutcracker, pileated woodpecker, brown creeper, great gray owl, grizzly bear, bald eagle, fisher, and the great blue heron. All the bird species with the exception of the eagle and heron would find habitat on the subject property. The eagle and the heron are associated more the habitat and meadows lower in the drainage along Truman Creek Road. However there are hundreds of thousands of acres with similar tree types surrounding the subject property, with federal, state, corporate, and private timber lands. The cutthroat is located in Wild Bill Creek which runs through the property. To address the habitat and potential impact on the species the applicant is proposing a 100-foot setback on each side of the creek. The grizzly bear and the fisher may pass through the property but there is really nothing unique about the property that would attract these mammals. There are no special food sources or large habitats that are uniquely attractive to the grizzly or fisher.

“Wild Bill Creek runs through a portion of the subdivision and there is a small pothole wetland on the property. A 200-foot wide “No-Build” Zone has been shown over the creek on the preliminary plat. A “No-Build” with no additional setback is proposed for the pothole wetland.”

Comment from Montana Fish, Wildlife & Parks stated, “This subdivision would be located in an area that has little development and provides habitat for numerous wildlife species, including white tailed deer, black bears, the occasional grizzly bear, bobcats, mountain lions, coyotes, foxes, and many additional mammalian and avian species. The proposed Lots 3, 4, and 5 are bisected by a creek, and the developer has proposed a 50-ft. no-build zone on either side of the creek. In addition, Lot 4 contains a wetland area that is also designated as a no-build zone. The development of this property will have direct impacts on wildlife habitat and populations in the area. Cumulatively, the ongoing development of this area of Kila will result in significant habitat loss to wildlife and increased wildlife-human conflict.

“To help mitigate these habitat impacts, we submit the following suggestions. We suggest increasing the lot sizes to decrease the amount of residential lots. Specifically, combining lots 2 and 3 would reduce the overall impact on the wetland area in lot 2 and the creek corridor that runs through 3 of the proposed lots. Currently there is the potential for the creek to be restricted within a culvert at 3 locations due to driveway

development. Reducing this to 2 potential culverts by combining lots 2 and 3, would decrease the overall impact to the riparian corridor. Furthermore, we recommend a total building setback of 200 ft. along perennial streams; whereas, the developer has indicated a 50 ft. setback instead. This proposed no-build corridor is not sufficient to mitigate development impacts on the riparian corridor. In addition, the wetland area should be surrounded by a 130 ft. no-build zone buffer to maintain the integrity of the wetland. It is unclear from the plat, how much area is encompassed by the wetland, but it does not appear any additional buffer has been established.

“As the human population of the Flathead Valley increases dramatically, so do human-wildlife conflicts. FWP cannot respond to all wildlife conflicts, and home-owners must do their part in mitigating potential conflicts. We expect that this subdivision will result in an increase in human-wildlife conflicts in the Kila area. These primarily will include conflicts with deer, mountain lions, turkeys, black bears and grizzly bears. Potential buyers should be made aware that they are moving into wildlife habitat, where predators are common.” The comment went on to suggest wording for possible covenants which would help minimize human-wildlife conflict.

Finding #12 – Adverse impacts on wildlife and wildlife habitat as a result of the proposed subdivision are acceptable because the subject property will have no build zone on the wetland as well as a 100 foot no build zone on both sides of Wild Bill Creek and a Riparian Resource Management Plan was submitted with the proposal.

19. Historical Features

The Environmental Assessment indicates there are no known historic, paleontological, archeological, or cultural sites, structures, or objects on the subject properties.

20. High Voltage Electric Lines/High Pressure Gas Lines

There are no high pressure gas lines or high voltage electrical lines on the subject properties. Comments received from the Bonneville Power Administration state, “At this time, BPA does not object to this request, as the property is located 5.50 miles away from the nearest BPA transmission lines or structures.”

21. Airport Influence Areas

The subject property is not located within a public Airport Influence Area.

Finding #13 – The proposal does not appear to have an impact on historical features, high voltage electric lines, or high pressure gas lines because there are no known historical features and the property is not located near high voltage electric lines or high pressure gas lines.

Finding #14 –The proposal does not appear to have an impact on the airport influence area because the proposal is not within a public Airport Influence Area.

B. Compliance with Survey Requirements of 76-3-401 through 76-3-406 M.C.A.

Finding #15 – The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

C. Compliance with the Flathead County Subdivision Regulations and Review Procedure

1. Requested Variances

The application includes a request for a variance from Section 4.7.17(f)(i) of the Flathead County Subdivision Regulations which states, *“For a subdivision which will contribute 50 or less average vehicle trips (ADT) per day to the County road system and where the primary access to the subdivision is an existing unpaved road (either public or private), the Commission shall require the subdivider to improve and pave a portion of the road.”*

i. The distance of required paving and the extent of required improvements shall be determined per the methodology of the ‘standard improvement formula’ (see section i below;”

The hardship explained by the applicant is as follows, *“The ‘standard improvement formula’ referenced in the Flathead County Subdivision Regulations works out as follows:*

$$P / (P+E) \times (100) = I$$

P is projected trips

E is existing trips

I is the percent of road to be improved

- *Between July 21, 2020 and July 27, 2020 Abelin Traffic Services conducted traffic counts on Wild Bill Road at the subdivision property. The traffic counts worked out to 81 vehicle trips per week day and 112 vehicle trips per weekend. The Average trip per day is 90.*

Paving required for Wild Bill Road

“From the end of pavement at the intersection of Wild Bill Road/Truman Creek Road to the Driveway into the last lot of the proposed subdivision is 5800 feet.

$$60 / (60+90) \times 100 = 40\% \text{ of Wild Bill Road.}$$

$$40\% \times 5800 \text{ feet} = 2320 \text{ lineal feet (0.44 miles) of paving for six lots}$$

“This ‘standard improvement formula’ is essentially an impact fee and the State Law (§7-6-1602(2)(i) says the following: “Establish the amount of the impact fee that will be imposed for each unit of increased service demand.” Impact fees and exactions are required to be fair and proportionate. In this case Wild Bill Road provides access to rural residential parcels, corporate timber lands, Federal timber lands, USFS recreation sites, and State timber lands and none of these parcels / users are contributing to the paving of Wild Bill Road. The result is that this small subdivision will be required to pave almost half a mile of public road.

“An engineer’s estimate of \$3.00 a square foot which includes excavating four inches of road base, adding six inches of crushed to the road, and paving a three inch lift for the 2320-feet comes to \$153,120.00. This requirement adds approximately \$25,520.00 per lot.

“The cost of this required condition is not proportionate compared to impact of six lots. As no other lots in the neighborhood have ever had to pave, the rule does not appear to be fair. There is a significant Off-Highway on USFS Lands to the south of the project and these users do not participate in paving or maintenance costs of Wild Bill Road.

“The applicant proposes an alternative to the “Standard Improvement Formula” for the project. The applicant proposes paving 600-feet of Wild Bill Road which is 100-feet per lot. Six hundred feet is a significant amount of pavement for a six lot subdivision with an average lot size of 26.5 acres per lot.”

Wild Bill Road is a two lane gravel public road within a 60 foot easement.

Subject to compliance with FCSR Section 4.0.11, the Commission shall not approve a variance unless it finds that all of the following are met:

i. The variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;

The applicant states, “The requirement for off-site improvements was conceived as a way to reduce air born dust generated by the County’s gravel roads. While this is a good policy in general, for small subdivisions such as this where the applicants are large lots a significant distance from the nearest pavement, the formula places a greater proportion of impact and cost on the small subdivision than it would if the applicant were creating ten or twenty lots. So the reality is that this is not an evenly proportional regulation.

“If the County accepts the alternative 100 feet of pavement per lot, the County will still have a significant amount of road paved in rural setting and the per lot fee appears more reasonable.”

There would likely be minimal impacts to public health, safety, and general welfare as a result because while the road is gravel, low traffic volume would be added and the applicant is offering to pave 600 feet of Wild Bill Road.

ii. Because of the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self-imposed;

The hardship according to the applicant is, “The hardship is not based on physical characteristics of the property. The hardship is based on the applicants creating a small six lot subdivision on 159 acres and that this property is over a mile from the nearest paved road. In this instance the cost of the requirement works out to \$25,520.00 per lot. Exactions such as paving of off-site roads should be based on a cost per unit like impact fees. These same lots a half mile closer to the end of pavement would only pave half as much for off-site improvements and the impact is the same.”

Wild Bill Road is within 60 foot easement and the property is located in rural area on a gravel, unmaintained County road with low traffic volumes.

iii. The variance will not cause a substantial increase in public costs, now or in the future;

The applicant states, *“Wild Bill Road is a County Road but it is not on the maintenance schedule for the County. The private land owners up the road perform maintenance such as snow plowing on the road. The applicant will work with the neighboring properties on a formal road maintenance agreement for the County Road.”*

The proposed variance is not likely to increase public costs now or in the future because while Wild Bill Road is a public road, it is not on the County maintenance schedule. The applicant indicates a willingness to work with neighboring property owners to maintain the road similar as to what is already being done in the area.

iv. The variance will not place the subdivision in nonconformance with any adopted growth policy, neighborhood plan or zoning regulations;

According to the applicant, *“The variance will not place this property in non-conformance with the growth policy as it is not a regulatory document. The property is not zoned but the density of one unit per 26.5 acres fits the rural character of this area.”*

The property is not located in an area that is zoned or part of a neighborhood plan. The Growth Policy discusses transportation in Chapter 6 and specifically addresses road improvement in policies 24.2 and 24.3. Those policies state, *“P.24.2 Require County road improvements to mitigate impacts directly attributable to a subdivision or development as a necessary component of that development to preserve the carrying capacity of the roadway.*

“P.24.3 Require development projects to design road systems that complement planned land uses and maintain mobility on arterial roads and highways.”

The other criteria for the variance will determine if the development will negatively impact the roadway if no improvements are completed on the public road.

v. The variance is consistent with the surrounding community character of the area.

According to the applicant, *“In the rural parts of Flathead County it is unusual to see paved roads. The ‘rural’ character is for gravel roads. However to address air quality the County has established a rule. We believe that air quality is important and that is why the applicant is offering an alternative that is more fair and equitable.”*

The variance is consistent with the surrounding community character of the area because it is located in a rural area and the proposed subdivision would only add 60 additional vehicle trips to the road system. Many of the roads in the Kila area that serve a similar number of lots and homes are gravel and not paved at all.

Finding #16 - The variance requested by the applicant generally meets the variance criteria because there would be minimal impacts to public health, safety, and general welfare, the property is located in a rural/low density setting, the road is public yet privately maintained and it would be constant with the surrounding community character.

Finding #17 -The proposed subdivision is in general compliance with the Flathead County Subdivision Regulations, effective December 3, 2018 as compliant legal and physical access would be provided and potential impacts to the primary review criteria appear able to be adequately addressed by conditions.

2. Flathead County Subdivision Review Procedure

- i. Pre-application Conference Date**
June 3, 2020
- ii. Application Deadline Date (6 months from pre-application)**
December 3, 2020
- iii. Application Submittal Date**
August 31, 2020
- iv. Completeness Date**
September 15, 2020
- v. Sufficiency Date**
October 5, 2020
- vi. Agency Referral Requests Mailing Date**
October 22, 2020
- vii. Adjacent Property Notification Mailing Date**
November 20, 2020
- viii. Legal Notice Publication Date**
November 22, 2020
- ix. On-site Posting of Public Hearing Date**
November 19, 2020

Finding #18 – The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 3, 2018.

D. Provision of Easements for the Location and Installation of Planned Utilities

According to the EA, *“Flathead Electric Co-op provides electrical power; CenturyLink provides telephone service. All utilities are installed underground. The project is proposed in a single phase. The utilities will be installed at the time the subdivision is developed which could be the 2021 construction season.”*

Finding #19 – The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

E. Provision of Legal and Physical Access to Each Parcel

Finding #20 – Wild Bill Road would provide legal and physical access for Lots 2 through 6 and the applicant will develop to Flathead County Road and Bridge Standards for gravel roads and utilize approximately 465 feet of an existing 60 foot Easement Agreement for accessing Lot 1.

F. Review of Applicable Plans

76-1-605(2)(b) M.C.A states that *A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance*

with a growth policy adopted pursuant to this chapter. Furthermore, 76-3-608(3) M.C.A. does not contain compliance with the growth policy as a primary criteria by which an individual subdivision proposal must undergo local government review or on which findings of fact are to be based. Review of general conformance with applicable plans is provided as an acknowledgement and consideration of the guidance offered by the information contained in the document(s).

1. Neighborhood Plan

The proposed subdivision is not located within a Neighborhood Plan area.

2. Flathead County Growth Policy

The Flathead County Growth Policy is a general policy document that meets the requirements of 76-1-601, MCA and was updated on October 12, 2012. Regulations adopted by Flathead County used in the review of subdivisions are an implementation of the goals and policies established in the Growth Policy. This proposal conforms to the regulations used in the review of subdivision in Flathead County and is therefore in general compliance with the Flathead County Growth Policy.

Finding #21 – The proposal is not within a Neighborhood Plan area and is generally consistent with the Flathead County Growth Policy.

G. Compliance with Local Zoning

As previously stated, the proposed subdivision is located in an area which does not have a zoning designation.

Finding #22 – The proposed subdivision is in compliance with local zoning because the current proposal is in an area without a zoning designation.

V. CONCLUSION

In accordance with the provisions of Section 4.2 of the Flathead County Subdivision Regulations, a review and evaluation of the first minor subdivision application has been completed by Planning and Zoning staff and forwarded to the Flathead County Commissioners for their consideration. The proposed subdivision appears to generally comply with the applicable design standards and subdivision review criteria found in Section 4.7 FCSR, pursuant to the Findings of Fact stated above.

Should the Flathead County Board of Commissioners choose to grant preliminary plat approval to Wild Bill Reserve, the draft conditions found in Exhibit B should be considered to supplement the decision and mitigate impacts anticipated as a result of the subdivision.

**FINDINGS OF FACT
SUBDIVISION REPORT # FPP-20-19
WILD BILL RESERVE
NOVEMBER 24, 2020**

1. There would be minimal impact on agriculture or agricultural water user facilities as a result of the proposed subdivision because the property has not been in agricultural production, has no irrigation infrastructure on site, and is not in an irrigation
2. The subdivision will have minimal impact on water and wastewater because the subdivision will utilize individual wells and septic systems, MDEQ review is not required, and the subdivision will be subject to review from the Flathead City-County Environmental Health Department.
3. Impacts on solid waste disposal would be acceptable with standard conditions because the lots within the proposed subdivision would utilize contract haul services for solid waste management.
4. The road system appears to be acceptable because Wild Bill Road is a gravel two lane public road within a 60 foot easement which will access Lots 2 through 6, and the applicant will develop to Flathead County Road and Bridge Standards for gravel roads and utilize approximately 465 lineal feet of an existing 60 foot Easement Agreement for accessing Lot 1, and the potential increase for Wild Bill Road is 8.3%.
5. Adverse impacts on schools, mail delivery and recreation are not anticipated as a result of the proposal subdivision because the mail box site/s will be required to be approved by the local postmaster, the proposal has the potential to add three (3) school aged children, the Kila School District did not comment on the proposal, a bike/pedestrian easement will not be required and no parkland dedication is required.
6. Impacts on fire/medical and police services would be minimal with standard conditions and project specific conditions because the lots within the proposed subdivision would be served within an acceptable response time by the Smith Valley Fire Department if the subdivision is annexed into the Fire District and appropriate fire system installed and Flathead County Sheriff's Department in the event of an emergency.
7. Adverse impacts to air quality and noise are not anticipated with standard conditions because the applicant will be required to pave 2320 lineal feet unless a variance to the requirement is granted, a Dust Abatement Plan was provided to mitigate potential issues of dust during construction, and impacts of noise are not expected to extend beyond property lines.
8. The soils on the subject property appear to be acceptable because while the soils are a mix of not prime farmland, and farmland of statewide importance classifications, the property has not been in agricultural production, the subdivision will utilize individual wells and septic systems requiring review by the Flathead City-County Environmental Health Department and stormwater is required to be reviewed and approved by MDEQ.
9. No impacts from geological and avalanche hazards are anticipated because no geological and avalanche hazards are present on the subject properties.
10. Minimal impacts to the flora and riparian/wetland area are anticipated because the proposal has a clearly marked no build zone on the wetland in addition to a 100 foot no build zone on

both sides of Wild Bill Creek, the applicant has submitted a Riparian Resource management Plan and a weed management plan shall be approved by the Flathead County Weed Board prior to final plat approval.

11. The proposal would not introduce adverse impacts to public health and safety in regard to flood risk because the property is located in an unshaded zone X which is an area determined to be outside the 0.2% annual chance floodplain.
12. Adverse impacts on wildlife and wildlife habitat as a result of the proposed subdivision are acceptable because the subject property will have no build zone on the wetland as well as a 100 foot no build zone on both sides of Wild Bill Creek and a Riparian Resource Management Plan was submitted with the proposal.
13. The proposal does not appear to have an impact on historical features, high voltage electric lines, or high pressure gas lines because there are no known historical features and the property is not located near high voltage electric lines or high pressure gas lines.
14. The proposal does not appear to have an impact on the airport influence area because the proposal is not within a public Airport Influence Area.
15. The preliminary plat would conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which would be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.
16. The variance requested by the applicant generally meets the variance criteria because there would be minimal impacts to public health, safety, and general welfare, the property is located in a rural/low density setting, the road is public yet privately maintained and it would be constant with the surrounding community character.
17. The proposed subdivision is in general compliance with the Flathead County Subdivision Regulations, effective December 3, 2018 as compliant legal and physical access would be provided and potential impacts to the primary review criteria appear able to be adequately addressed by conditions.
18. The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective December 3, 2018.
19. The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.
20. Wild Bill Road would provide legal and physical access for Lots 2 through 6 and the applicant will develop to Flathead County Road and Bridge Standards for gravel roads and utilize approximately 465 feet of an existing 60 foot Easement Agreement for accessing Lot 1.
21. The proposal is not within a Neighborhood Plan area and is generally consistent with the Flathead County Growth Policy.
22. The proposed subdivision is in compliance with local zoning because the current proposal is in an area without a zoning designation.

**CONDITIONS OF APPROVAL
SUBDIVISION REPORT # FPP-20-19
WILD BILL RESERVE
NOVEMBER 24, 2020**

A. Standard Conditions

1. The developer shall receive physical addresses in accordance with Flathead County Resolution #1626. All road names shall appear on the final plat. Street addressing shall be assigned by Flathead County. [Section 4.7.16(g)(iv) and 4.7.26(c) Flathead County Subdivision Regulations (FCSR)]
2. The developer shall comply with reasonable fire suppression and access requirements of the Fire District if annexed. A letter from the fire chief stating that the plat meets the requirements of the Fire District (or Department) shall be submitted with the application for Final Plat. [Section 4.7.26(b) FCSR] (F.O.F 6)
3. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.25 FCSR] (F.O.F. 10)
4. With the application for final plat, the developer shall provide a compliant Road Users' Agreement or CC&R document which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision and for any integral access roads lying outside the subdivision. [Section 4.7.15(e), FCSR]
5. All utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.23 FCSR]
6. The proposed water, wastewater treatment, and stormwater drainage systems for the subdivision shall be reviewed, approved, and permitted as applicable by the Flathead City-County Health Department. [Sections 4.7.20 and 4.7.21 FCSR] (F.O.F. 2)
7. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the developer has met their requirements shall be included with the application for final plat. [Section 4.7.28 FCSR] (F.O.F. 5)
8. In order to assure the provisions for collection and disposal of solid waste, the developer shall submit a letter from the applicable solid waste contract hauler stating that the hauler is able to provide service to the proposed subdivision. [Section 4.7.22 FCSR] (F.O.F 3)
9. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14 FCSR] (F.O.F. 7)
10. All road names shall be approved by Flathead County and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the

house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c) FCSR]

11. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. All road names shall be assigned by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c) FCSR]
 - b. All utilities shall be placed underground. [Section 4.7.23 FCSR]
 - c. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14 FCSR and F.O.F. 9]
 - d. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.22, FCSR and FOF 3]
 - e. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.25 FCSR and F.O.F. 10]
12. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i) M.C.A.]
13. Where the aggregate total disturbed area of any infrastructure construction in the proposed subdivision as defined in A.R.M. 17.30.1102(28) is equal to, or greater than one acre; or where when combined with subsequent construction of structures such disturbed area will be equal to, or greater than one acre, a Montana State Department of Environmental Quality (DEQ) General Permit for Stormwater Discharges Associated with Construction Activity (General Permit) shall be obtained prior to any site disturbance or construction and a copy of the DEQ confirmation letter shall be provided to the Flathead County Planning & Zoning office prior to final plat approval. [17.30.1115 Administrative Rules of Montana (A.R.M.)]
14. All required improvements shall be in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.0.16 FCSR]
15. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.1.13 FCSR]
16. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. Extension requests to the preliminary plat approval shall be made in accordance with the applicable regulations and following associated timeline(s). [Section 4.1.11 FCSR]

B. Project-Specific Conditions

22. Design and construction of all internal subdivision roads shall be certified by a licensed engineer and constructed and paved as proposed in accordance with the Flathead County Minimum Standards for Design and Construction, as applicable.

- 23.** Unless a variance is granted, the developer shall pave 2320 feet of Wild Bill Road, which shall be certified by a licensed engineer and constructed and paved in accordance with the Flathead County Minimum Standards for Design and Construction, as applicable. [Sections 4.7.16 & 4.7.17 FCSR]
- 24.** Prior to final plat approval the developer shall provide evidence that all applicable water right requirements of the Department of Natural Resources Water Resources Division have been met. [Section 4.7.20(d) FCSR]
- 25.** Actions called for in the 'Fire Prevention Control and Fuels Reduction Plan' shall be implemented prior to the approval of the Final Plat. The local/reviewing fire authority when annexation occurs shall inspect the subdivision and provide written documentation that all thinning, clearing and other mitigation measures described in the plan have been completed as proposed for the subdivision. [Section 4.7.27(b)(iii) FCSR]
- 26.** The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. This plat has not been reviewed or approved for individual sewer or water facilities or for storm water drainage.
 - b. This subdivision is located in the Wildland Urban Interface area where wildfires can and do occur. [Section 4.7.27(a)(ii)(A), FCSR]
 - c. Only Class A and Class B fire-rated roofing materials are allowed. [Section 4.7.27(a)(ii)(B), FCSR]
 - d. Firewise defensible space standards shall be incorporated around all RV spaces, primary structures and improvements.
- 27.** The boundaries of the wetland shown on the preliminary plat shall be labeled as a 'No Build Zone' on the face of the final plat. [Section 4.7.10 FCSR]
- 28.** Prior to final plat approval, the applicant shall provide written documentation from the Fire District verifying all lots within the subdivision have been annexed into the District. [Section 4.7.27 FCSR]